

**BEFORE THE TENNESSEE REGULATORY AUTHORITY AT
NASHVILLE, TENNESSEE**

October 7, 2004

IN RE:

**PETITION OF XO TENNESSEE, INC. AND XO
COMMUNICATIONS SERVICES, INC. FOR APPROVAL
OF TRANSFER OF AUTHORITY**

**DOCKET NO.
04-00212**

ORDER APPROVING TRANSFER OF AUTHORITY

This matter came before Chairman Pat Miller, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on August 9, 2004 for consideration of the Petition of XO Tennessee, Inc. ("XO TN") and XO Communications Services, Inc. ("XO Communications") (together, "Parties" or "XO Subsidiaries") for TRA approval of a transfer of authority to provide telecommunications services required under Tenn. Code Ann. § 65-4-113.

Tenn. Code Ann. § 65-4-113

Tenn. Code Ann. § 65-4-113 requires a public utility to obtain TRA approval to transfer its authority to provide utility services (also known as a "certificate of public convenience and necessity" or "CCN"). Tenn. Code Ann. § 65-4-113(a) reads as follows:

No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

Tenn. Code Ann. § 65-4-113(b) provides the standards by which the TRA shall consider an application for transfer of authority, in pertinent part, as follows:

Upon petition for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. . . .

Background

By an Order dated September 29, 1995 in TRA Docket No. 95-02502, the TRA granted XO TN the authority to provide telecommunications services in the State of Tennessee (“CCN” or “XO’s CCN”). Both XO TN and XO Communications¹ are direct, wholly owned subsidiaries of XO Communications, Inc. (“XO”). The same team of telecommunications personnel manages both XO TN and XO Communications, and the XO Subsidiaries also share one team of consumer representatives.

The Petition

In the Petition, which was filed with the TRA on July 16, 2004, the XO Subsidiaries outline a transaction in which they will be consolidated into a single operating entity, which will continue as XO Communications. After the consolidation, XO will remain the ultimate corporate parent of XO Communications, and XO TN will cease to exist by operation of law. XO TN’s CCN will transfer to XO Communications, which will become the direct holder of the CCN and provider of telecommunications services in Tennessee. XO will remain the ultimate owner of the CCN.

The Parties contend that the proposed transfer of operating authority from XO TN to XO Communications will be virtually transparent to Tennessee consumers and have no adverse impact on them. XO Communications will provide end users the same services XO TN provided, from the same qualified personnel and at substantially similar rates, terms, and conditions. Customers will continue to see “XO” on their invoices. According to the Petition, the transaction will benefit the

¹ XO Communications formerly was XO Domestic Holdings, Inc. The company changed its name on June 29, 2004 and was in the process of obtaining the necessary documentation from the Tennessee Secretary of State at the time it filed its Petition with the TRA for transfer of authority. See *Petition*, p. 1 n1 (July 16, 2004).

public by simplifying the XO corporate structure and providing significant reductions in legal, accounting, and administrative burdens. These changes will improve the overall efficiency and competitive ability of XO, leading over time to improved pricing, product and service options for Tennessee consumers.

August 9, 2004 Authority Conference


At the August 9, 2004 Authority Conference, the Directors voted unanimously to approve the Petition pursuant to a finding of compliance with the requirements of Tenn. Code Ann. § 65-4-113.

IT IS THEREFORE ORDERED THAT:

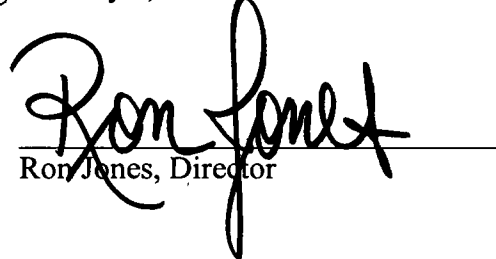
1. The Petition of the XO Subsidiaries is approved.
2. The proposed transfer of XO TN's CCN as described in the Petition and discussed herein is approved.
3. XO Communications is directed to file documentation showing approval from the Tennessee Secretary of State of the name change from XO Domestic Holdings, Inc. to XO Communications Services, Inc.



Pat Miller, Chairman



Sara Kyle, Director



Ron Jones, Director